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John J. McDonnell
McDonnell Boehnen Hulbert & Berghoff
300 South Wacker Drive, Seventh Floor
Chicago, Illinois 60606

In re Application of
Michael T. Brewer et al.
Application No. 08/484,337
Filed: June 7, 1995
Attorney Docket No. 65850-105-4.

APR 07 2000
SPECIAL PROGRAMS OFFICE
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ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 12, 1999, to revive the above-identified application.

The petition is Granted.

This application became abandoned for failure to timely file an Appeal Brief within two months of the September 10, 1998 filing date of the Notice of Appeal. No extensions of time having been obtained pursuant to the provisions of 37 CFR 1.136 (a), the date of abandonment of this application is November 10, 1998. A Notice of Abandonment was mailed in error on May 12, 1999 however, no Notice of Abandonment was mailed with respect to the above referenced abandonment.

As the Notice of Appeal was filed with a three month extension on September 10, 1998 (certificate of mail date, September 2, 1998), it should be noted that the reason for the abandonment was for failure to file an appeal brief as indicated in the petition and not for failure to respond to the final Office Action.

The statement of unintentional delay presented in the petition does not comply with the current rule. Effective December 1, 1997, 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

The Terminal Disclaimer filed December 2, 1999 has been accepted. The period disclaimed is eleven months.

The submission under 37 CFR 1.129(a) has been accepted as the reply.

The application is being returned to Technology Center 1600 for treatment of the submission and the amendment filed August 12, 1999.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Petitions Attorney
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects